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In re Application of :
BINKERT et al. :
Application No.: 10/580,169 :
PCT No.: PCT/EP2004/012953 : DECISION
Int. Filing Date: 16 November 2004 :
Priority Date: 21 November 2003 :
Attorney's Docket No.: A0345.0025 :
For: NOVEL THIAZOLIDIN-4-ONE DERIVATIVES :

This decision is in response to applicants' "REQUEST FOR CORRECTED FILING RECEIPT AND CORRECTED NOTICE OF ACCEPTANCE OF APPLICATION" filed 01 February 2007, which has properly been treated as a petition under 37 CFR 1.181. (A second request for corrected filing receipt for a second matter was filed 23 April 2007. The correction requested in that submission has already been made.)

BACKGROUND

On 16 November 2004, applicants filed international application PCT/EP2004/012953, which designated the United States and claimed a priority date of 21 November 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 16 June 2005. The thirty-month period for paying the basic national fee in the United States expired at midnight on 22 May 2006 (21 May 2006 being a Sunday).

On 19 May 2006, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee and a declaration of inventors.

On 01 December 2006, applicants filed a "REQUEST TO CORRECT INVENTORSHIP UNDER 37 C.F.R § 1.48(a)(1)" which was properly treated as a petition under 37 CFR 1.497(d)(1).

On 20 December 2006, a decision was mailed granting applicants' petition under 37 CFR 1.497(d).

On 12 January 2007, the United States Designated/Elected Office (DO/EO/US) mailed a NOTICE OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.495 (Form PCT/DO/EO/903) indicating the 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) date as 01 December 2006 and the date of completion of all 35 U.S.C. 371 requirements as 01 December 2006.

On 01 February 2007, applicants submitted a "REQUEST FOR CORRECTED FILING RECEIPT AND CORRECTED NOTICE OF ACCEPTANCE OF APPLICATION" requesting that the "FILING OR 371(c) DATE" indicated on the Filing Receipt be changed from 01 December 2006 to 19 May 2006 and that the 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) date and the date of completion of all 35 U.S.C. 371 requirements be changed from 01 December 2006 to 19 May 2006. This request has properly been treated as a petition under 37 CFR 1.181.

DISCUSSION

The NOTICE OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.495 lists two dates. (See MPEP § 1893.03(b) for a more detailed discussion regarding the difference between the two dates.) The date on the left is the date the requirements under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) have been met. In this case, that date is 01 December 2006. The date on the right is the date of completion of all 35 U.S.C. 371 requirements. In this case, that date is also 01 December 2006. The "FILING OR 371(c) DATE" indicated on the Filing Receipt is also 01 December 2006.

35 U.S.C. 371(c)(4) requires "an oath or declaration of the inventor (or other person authorized under chapter 11 of this title) complying with the requirements of section 115 of this title and with regulations prescribed for oaths or declarations of applicants". 37 CFR 1.497(d) is a regulation prescribed for oaths or declarations of applicants. Applicants complied with 37 CFR 1.497(d) on 01 December 2006. Accordingly, the indications on the Filing Receipt and on the NOTICE OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.495 are correct.

CONCLUSION

For the reasons set forth above, applicants' petition under 37 CFR 1.181 is DISMISSED without prejudice.

Any further correspondence with respect to this matter may be filed electronically via EFS-Web or if mailed should be addressed to Mail Stop PCT, Commissioner for Patents, Office

of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

/Daniel Stemmer/

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